

AF 3625

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Jeffrey ALNWICK

Group Art Unit: 3625

Serial No: 09/732,738

Examiner: C. Nguyen

Filed : December 12, 2000

For : METHOD AND SYSTEM FOR ORDERING
ITEMS OVER THE INTERNET

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RESPONSE TO ELECTION/RESTRICTION REQUIREMENT

Commissioner of Patents and Trademarks
Washington, DC 20231

Sir:

Responsive to the election/restriction requirement mailed on April 27, 2004, the undersigned strongly traverses the election/restriction requirement mailed on April 27, 2004.

The Examiner has indicated that the present application contains two sets of claims. The first set denoted as Group I covers claims 16-22 and the second set denoted as Group II covers claims 23-29. The Examiner has taken the position that Group I will be classified in Class 705, subclass 26 and Group II will be classified in Class 705, subclasses 22 and 28. The Examiner has further indicated that Group I and Group II inventions contain different and unrelated inventions according to the preambles of the two independent claims 16 and 23. The Examiner stated that the inventions are unrelated if they have different functions or different effects.

The undersigned respectfully takes the position that both sets of claims, Group I and Group II, are directed to a computerized method for transmitting inventory information from a first group of vendors, a second group of vendors and a third group of vendors to a location allowing at least one buyer to review the inventory information. These features are specifically recited in both independent claims 16 as well as independent claim 23. The Examiner stated that with respect to Group I, the "how" inventory of information is transmitted is not in scope of the claims, therefore differences in transmitting

inventory information rates do not effect steps of "enabling a buyer to review information". The undersigned respectfully disagrees with this statement. As previously discussed with the Examiner, the term "interval rate" recited in claim 16 does not refer to the actual speed that inventory information is transmitted, such as at 5600 bits per second, but refers to the frequency that inventory information is to be transmitted from the vendors to a location to be reviewed by the buyers. For example, the interval rate utilized by the first group of vendors might be once every 12 hours. This is compared to the interval rate of the second group of vendors which could be every hour and the interval rate of the third group of vendors which could be in real time. Therefore, the fact that three different interval rates would be utilized by the three groups of vendors would affect the manner in which the buyer is enabled to review this inventory information since both independent claims 16 and 23 specifically recite a step in which the buyer periodically reviews the inventory information transmitted by the three groups of vendors. It can then easily be appreciated that the more frequently inventory information is transmitted from the vendors, the more up-to-date the information is, when it is reviewed by the buyer. Therefore, the buyers ability to review the inventory information is affected by the interval rate in claim 16 and the discrete time interval of claim 23.

Additionally, the Examiner contends that the Group I and Group II inventions are distinct from another based upon the preambles of claims 16 and 23. Initially, it is noted that the preamble of a claim does not limit the scope of a claim when it simply states a purpose or intended use of the invention. This is true if the preamble merely summarizes the invention and is in essence a title of that invention. As affirmed by STX Inc. v. Brine Inc. 50 U.S.P.Q. 2nd, 1236, 1244, "If the claim itself, without reference to the preamble, recites a structurally complete invention and the preamble merely describes the intended use of the product, the preamble is not a part of the claims limitations." While STX Inc. v. Brine Inc. refers to a product, it is undoubtedly true that it would have applicability if the

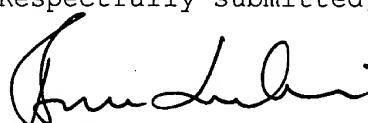
claims are directed to a method or process. It is believed that the preamble of both claims 16 and 23 does not limit the scope of their respective claims, and that both of these preambles are very similar in nature since they both relate to a computerized method of transmitting inventory information.

The Examiner has indicated that the Group I inventions would be classified in Class 705, subclass 26 relating to electronic shopping. The Examiner also indicated that the Group II invention would be classified in Class 705, subclasses 22, 28. Initially, it is noted that subclass 22, relating to inventory monitoring, is classified under subclass 16 which includes a point of sale terminal or electronic cash register. Since claim 23 does not recite a point of sale terminal, or an electronic cash register, it is believed that claim 23 would not be classified in subclass 22. Rather, it would appear that claim 23 would be classified in subclass 28 relating to inventory management. Since claim 16 is also directed to a method of inventory management, it is believed that claim 16 could also be classified in this subclass. Therefore, since it is believed that both independent claims 16 and 23 recite non-independent inventions, both of which could be classified in the same subclass, it is believed that the election/restriction requirement is in error and should be withdrawn.

Although applicant believes that the election/restriction requirement is unwarranted, to present the Examiner with a complete response, applicant elects the Group II invention including claims 23-29.

Dated: May 25, 2004

Respectfully submitted,



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BERNARD MALINA

5/25/04

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